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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION

Initial reports of States parties due in 1988

Addendum

MEXICO */

[13 February 1990]

MEXICO: Information supplementing the initial report

1. The Committee against Torture requested information concerning prosecutions for the crime of torture, in accordance with the Federal Act to Prevent and Sanction Torture.

During 1989, the Federal Public Prosecutor's Department brought criminal proceedings against Jorge Franco Aburto, Gerardo Ontiveros Orozco, Pedro Nava Zavala and Juan Manuel Valencia Coronado, who were accused of the crime of torture as defined in article 1 of the Federal Act to Prevent and Sanction Torture. These were the first cases in which the Federal Act was formally applied. On 21 July 1989, Mr. Gerardo Ontiveros Orozco, a former Judicial Police Officer in the Second Division of the Federal District, was remanded to the Sixth District Judge for criminal matters.

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*/ The present document contains additional information requested by the Committee against Torture at its second session at the end of its consideration of the initial report of Mexico (CAT/C/5/Add.7), on 21 April 1989 (see CAT/C/SR.16-17 and the annual report of the Committee against Torture, Official Records of the General Assembly, Forty-fourth session, Supplement No. 46 (A/44/46, paras. 170-201).

2. The Committee wished to know what difficulties had been encountered in implementing the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, especially with regard to protecting citizens against torture.

It should be noted that the community clearly rejects the practice of torture and, in general, the mistreatment which may be or is inflicted by members of the Judicial Police or the Public Prosecutor's Department in order to obtain confessions from suspects in a preliminary investigation, or from witnesses and other persons involved in the relevant inquiries. The Mexican Government has therefore adopted specific measures to protect citizens against torture; in that connection, the Attorney-General of the Federal District issued a decision governing preliminary investigations which refers to the treatment of persons charged with criminal acts (decision No. A/001/90, published in the Diario Oficial of 4 January 1990).

In this decision, the Attorney-General decreed as follows:

(a) The Public Prosecutor's Department can intervene only on the basis of a prior information, charge or complaint. It shall be assisted in its investigations by the Judicial Police, medical services and other authorized auxiliaries, where such assistance is requested by the official in charge of a preliminary investigation.

(b) The interrogation of suspects and of the witnesses against them shall be strictly under the authority of the Public Prosecutor's Department, which shall inform suspects of their right to appoint a defence lawyer or a person to advise them. Deponents may not be subjected, directly or indirectly, to physical or mental violence, and they shall be treated with decency and respect.

(c) Before and after being interrogated, the suspect shall be examined by a member of the medical staff assisting the Public Prosecutor's Department, who shall testify to the individual's mental and physical condition with a view to any torture or mistreatment which he may have suffered or which may later be invoked in his defence, immediately issuing a certificate in that regard.

(d) The defence lawyer or representative appointed by the suspect shall have the right to be present during the interrogation and to call for the dismissal of evidence during a preliminary investigation.

(e) The Judicial Police shall be under the authority and direct control of the Public Prosecutor's Department. The Code of Penal Procedure determines the cases in which the Judicial Police may investigate criminal acts ex officio, strictly on its own authority; in general, however, it shall act under orders received from the Public Prosecutor's Department.

(f) Persons apprehended in flagrante delicto shall immediately be handed over to of the Public Prosecutor's Department, which shall investigate the facts. Detention in places other than those officially designated as preventive detention centres, and any mistreatment or physical or mental coercion in such centres, shall be prohibited.

(g) In order to monitor compliance with the decision in question, the Inspectorate of the Attorney-General's Office of the Federal District, the Internal Inspection Unit of the Judicial Police and the Internal Inspection Unit of Expert Services shall supervise the activities of staff of the Public Prosecutor's Department and the Judicial Police and of the experts, respectively. Any irregularities detected in the manner in which they discharge their duties shall be brought to the attention of the Internal Audit Office or the Disciplinary Committee of the Judicial Police, as appropriate, which bodies shall also investigate individual complaints of violations or proceed ex officio. Should they discover that criminal acts may have been committed, they shall forward the necessary evidence to the Directorate-General of Preliminary Investigations for investigation and action.

The Attorney-General of the Federal District also issued a decision instructing staff of the Public Prosecutor's Department as to the humanitarian and decent manner in which individuals involved in their proceedings should be treated (decision published in the Diario Oficial of 9 March 1989) and providing, in particular, that persons detained under the law because of their connection with a criminal investigation should be treated with the greatest respect.

Accordingly, efforts are being made to avoid and prevent acts constituting an abuse on the part of any public servant and an assault on the integrity of the individual, which are particularly grave when they are committed by the authority responsible for prosecuting and preventing crime.

3. The Committee requested information concerning the number of persons detained in penal establishments.

Prevention and Social Rehabilitation

Adult offenders	Unit	1989
Inmates serving sentences	persons	21 459
Partial remission of sentence	cases	898
Type of release granted:		
Parole	cases	654
Conditional	cases	1 168
Unconditional	cases	509
Guardianship Council for juvenile delinquents		
Juvenile delinquents dealt with	persons	5 300
Decisions:		
Unconditional release	cases	2 256
Probation	cases	648
Release under the supervision of the Guardianship Council	cases	1 632

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	Unit	1989
Treatment by means of internment:		
Special guidance school	persons	432
Collective homes	persons	84
Other institutions	persons	348
Social Rehabilitation Assistance Foundation		
Persons rehabilitated	persons	713